

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 308
93RD GENERAL ASSEMBLY

Referred to the Committee on Judiciary April 13, 2005, with recommendation that House Committee Substitute for Senate Bill No. 308 Do Pass by Consent. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

1493L.02C

AN ACT

To repeal sections 351.488, 355.716 and 355.871, RSMo, and to enact in lieu thereof three new sections relating to not-for-profit corporations.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 351.488, 355.716 and 355.871, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 351.488, 355.716 and 355.871, to read as follows:

351.488. 1. A corporation administratively dissolved pursuant to section 351.486 may apply to the secretary of state for reinstatement. The application must:

(1) Recite the name of the corporation and the effective date of its administrative dissolution;

(2) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(3) State that the corporation's name satisfies the requirements of section 351.110;

(4) Contain a certificate from the department of revenue reciting that all taxes owed by the corporation, including all liabilities owed as determined by the division of employment security pursuant to chapter 288, RSMo, have been paid or that a tax payback plan has been arranged with the department of revenue for liabilities owed to the department of revenue and a tax payback plan has been arranged with the department of labor and industrial relations division of employment security for any liabilities owed

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

as determined by the division of employment security pursuant to chapter 288, RSMo; and

(5) Be accompanied by a reinstatement fee in the amount of fifty dollars plus any delinquent fees, penalties, and charges that might have accrued.

2. If the secretary of state determines that the application contains the information and is accompanied by the fees required by subsection 1 of this section and that the information and fees are correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites his or her determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation as provided in section 351.380.

3. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred.

4. **In the event a corporation was administratively dissolved for failure to file an annual registration report, and the secretary of state determines that such failure was due to military service, as described in section 41.950, RSMo, the secretary of state may determine to waive the requirements of subsection 1 of this section, including waiver of the reinstatement fee described in subdivision (5) of subsection 1 of this section, and shall waive any penalties or charges as provided in subdivision (5) of subsection 1 of section 41.950, RSMo. Upon making the determination that failure to file an annual registration report was due to military service, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites his or her determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation as provided in section 351.380, RSMo. Nothing in this subsection shall be construed so as to waive the annual registration report fees due for the year or years in which no annual registration report was filed.**

5. In the event the name was reissued prior to the time application for reinstatement was filed, the corporation applying for reinstatement may elect to reinstate using a new name that complies with the requirements of section 351.110, and that has been approved by appropriate action of the corporation for changing the name thereof.

355.716. 1. A corporation administratively dissolved under section 355.711 **or forfeited after 1978 for failure to file an annual report** may apply to the secretary of state for reinstatement. The application must:

(1) Recite the name of the corporation and the effective date of its administrative dissolution **or forfeiture**;

(2) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(3) State that the corporation's name satisfies the requirements of section

355.146; and

(4) Contain a certificate from the director of revenue reciting that all taxes owed by the corporation have been paid if the corporation pays taxes.

2. If the secretary of state determines that the application contains the information required by subsection 1 of this section and that the information is correct, the secretary of state shall cancel the certificate of dissolution **or forfeiture** and prepare a certificate of reinstatement reciting that determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation under section 355.176.

3. When reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution **or forfeiture** and the corporation shall resume carrying on its activities as if the administrative dissolution **or forfeiture** had never occurred.

355.871. **1.** The repeal of former chapter 355 does not affect:

- (1) The operation of the statute or any action taken under it before its repeal;
- (2) Any ratification, right, remedy, privilege, obligation or liability acquired, accrued or incurred under the statute before its repeal;
- (3) Any violation of the statute or any penalty, forfeiture, or punishment incurred because of the violation, before its repeal;
- (4) Any proceeding, reorganization or dissolution commenced under the statute before its repeal, and the proceeding, reorganization or dissolution may be completed in accordance with the statute as if it had not been repealed; or
- (5) Any meeting of members or directors or action by written consent noticed or any action taken before its repeal as a result of a meeting of members or directors or action by written consent.

2. Repeals and reenactments provided in this section shall not avoid or invalidate the provisions of section 355.716.

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